

REMARKS/ARGUMENTS

Applicants submit the following amendments and remarks in response to the Final Office Action mailed November 13, 2009. A one-month Extension of Time extending the period of reply from February 13, 2010 up to and including Monday, March 15, 2010 is submitted herewith. A Request for Continued Examination ("RCE") is also submitted herewith.

Claims 1-5, and 7-15 were rejected in the Action. Claims 1, 8, and 12 have been amended, claims 9-11 have been cancelled, and no new claims have been added herein. Therefore, claims 1-5, 7, 8, and 12-15 are now pending in the present application. Support for all claim amendments can be found in Applicants' originally filed specification and drawings. As such, no new matter has been added. Applicants set forth remarks relating to the Office Action below.

In the Action, the Examiner rejected claims 1-5, and 7-15 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,882,462 to Weber ("Weber"). The Examiner asserted that Weber discloses a spanner wrench having a shaft (10) wherein a distal end of the shaft bends in a direction toward left for the left portion of the shaft and the right portion of the shaft bending to the right relative to the longitudinal axis of the shaft. The Examiner further asserted that there are at least two parallel pins (18) coupled to the shaft distal end and each pin extends in a direction perpendicular to a plane passing through the longitudinal axis.

While the Examiner discusses the recitations in claim 1 and claims 2-5 and 7-11 depending therefrom in reference to specific elements shown in Weber, the Examiner failed to provide support for the structure of the tool shown in Weber to reject independent claim 12 as well as claims 13-15 depending therefrom.

Applicants respectfully assert that amended independent claims 1 and 12 are unanticipated by Weber. Amended

claim 1 is unanticipated by Weber because the cited reference does not disclose, teach, or suggest an apparatus having at least one shaft having a distal end and a longitudinal axis including "two pins coupled to the shaft distal end wherein each pin extends in a direction perpendicular to a plane passing through the longitudinal axis, the pins being parallel to each other, a first of the two pins being located on the longitudinal axis of the shaft and a second of the two pins being offset from the longitudinal axis of the shaft." As stated above, the Examiner asserted that Weber shows at least two parallel pins (18) coupled to the shaft distal end and each pin extends in a direction perpendicular to a plane passing through the longitudinal axis of the shaft. However, Weber does not disclose, teach or suggest a first of the pins being located on the longitudinal axis of the shaft. As clearly shown in Fig. 1 of Weber, pins (18) are both offset from the longitudinal axis of the shaft and are therefore not located on the longitudinal axis as recited in amended independent claim 1. For the foregoing reasons, Applicants respectfully assert amended independent claim 1 is unanticipated by Weber and is in condition for allowance. Claims 2-5, 7-8, and 14-15 are also allowable, *inter alia*, their dependence from an unanticipated base claim.

Amended claim 12 is unanticipated by Weber because the cited reference does not disclose, teach, or suggest a set of apparatuses, each apparatus including "a shaft having a distal end and a longitudinal axis, the distal end of the shaft including a first prong and a second prong, the first prong being straight and extending along the longitudinal axis such that the first prong lies entirely on the longitudinal axis of the shaft and the second prong being curved and extending away from the longitudinal axis." As stated above, the Examiner asserted that Weber discloses a spanner wrench having a shaft (10) wherein a distal end of the shaft bends in a

direction toward left for the left portion of the shaft and the right portion of the shaft bending to the right relative to the longitudinal axis of the shaft. However, the Examiner asserted that since the prongs or arms 12 curve out and then in the same direction as the shaft to form a prong, the arms can be said to extend "along the longitudinal axis." While Applicants respectfully disagree with this assertion by the Examiner, independent claim 12 has been amended to more clearly define the invention. Clearly, Weber does not disclose, teach, or suggest a "first prong being straight and extending along the longitudinal axis such that the first prong lies entirely on the longitudinal axis of the shaft." By the Examiner's own admission, a distal end of the shaft of the wrench in Weber bends to the left and right relative to the longitudinal axis of the shaft, and thus, a first of at least two prongs is not straight and does not lie entirely on the longitudinal axis of the shaft. For the foregoing reasons, Applicants respectfully assert amended independent claim 12 is unanticipated by Weber and is in condition for allowance. Claim 13 is also allowable, *inter alia*, its dependence from an unanticipated base claim.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Application No.: 10/784,598

Docket No.: SPINE 3.0-437
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